

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
Second Appeal No. 539/2004

Notes, Office Memoranda of

Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's
Orders.

CORAM : A.P. Lavande,J
DATE : 8th November, 2006

Heard Shri N.D. Khamborkar, learned counsel for
the appellant.

2. This second appeal is directed against the Judgment and decree dated 31.8.2001 passed by the Additional District Judge, Buldana in Regular Civil Appeal No. 71/1998 allowing the appeal filed by the respondent-defendant against the Judgment and decree passed by the Second Joint Civil Judge, Junior Division, Buldana on 29th April, 1998 in Regular Civil Suit No. 76/96 filed by the appellant- plaintiff.

3. The above suit was filed by the plaintiff for recovery of damages of Rs. 20,500/- against the defendant. The trial Court decreed the suit. However, the appellate Court reversed the decree passed by the trial Court. When the matter came up for admission Mr. Khamborkar was called upon to satisfy this Court as to how the second appeal is maintainable in view of Section 102

of the Code of Civil Procedure which reads as under:

“102. No second appeal in certain cases--- No second appeal shall lie from any decree when the subject matter of the original suit is for recovery of money not exceeding twenty five thousand rupees.”

Mr. Khamborkar, the learned counsel is not in a position to satisfy this court about maintainability of the second appeal in the teeth of section 102 of the Code of Civil Procedure since the claim made in the suit was less than Rs. 25,000/-. In my opinion, the second appeal is clearly not maintainable under section 102 of the Code of Civil Procedure. Therefore, the second appeal is summarily rejected.

Judge

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